

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	CHAPTER NO. 13
	:	
KEITH KRATZKE	:	
	:	CASE NO. 16-17120-jkf
	:	
DEBTOR	:	PLAN OBJECTION
	:	
PENNSYLVANIA DEPARTMENT	:	HEARING DATE AND TIME
OF REVENUE,	:	April 6, 2017 at 9:30 a.m.
	:	
MOVANT	:	
	:	
V.	:	
	:	
KEITH KRATZKE	:	
	:	
RESPONDENT	:	RELATED TO DOCKET NO. 22

PENNSYLVANIA DEPARTMENT OF REVENUE’S
OBJECTION TO DEBTOR’S PROPOSED FIRST AMENDED CHAPTER 13 PLAN

NOW COMES, the Commonwealth of Pennsylvania, Department of Revenue (hereinafter “Department”), by and through its Office of Chief Counsel and Counsel Albert James Millar, and files this plan objection as authorized by 11 U.S.C. § 1324 for the following reasons, to wit:

1. This objection is made on the grounds that the Plan does not comply with the provisions of Chapter 13. The Plan has not been proposed in good faith as required by Title 11 U.S.C. § 1325(a)(1) and (3). The Debtor’s obligation pursuant to Title 11 U.S.C. § 1322(a)(2) to provide for full payment of all Department claims entitled to priority under Title 11 U.S.C. § 507 has not been met.
2. Debtor’s counsel was notified by letter dated October 18, 2016, that certain pre-petition state tax returns had not been filed. See Exhibit “A” attached hereto and hereby incorporated by reference as though it were fully set forth herein. More

- specifically, Debtor has the following unfiled returns: Employer withholding 03Q09 through 04Q06. (Exhibit A). Debtor's proposed plan is not confirmable unless these tax returns are filed and all tax principal and prepetition statutory interest arising from such late-filed returns are added as additional unsecured priority state tax claims within the context of the Debtors' Chapter 13 plan. If not, no proposed plan should be confirmed pursuant to 11 U.S.C. §§ 1308 and 1322.
3. Without the filing of the outstanding tax returns the Department cannot file a complete and liquidated claim against the Debtor, and the missing tax returns constitute priority tax claims under Title 11 U.S.C. § 507. Providing for the payment of the Department's claims and the filing of the delinquent tax returns would assist the Court, the Trustee, the Debtor, and the other creditors in determining the viability of any proposed plan.
4. Pursuant to 11 U.S.C. § 1308, the Debtors should be required to file all outstanding tax returns at the following address:
- Pennsylvania Department of Revenue
Office of Chief Counsel
P.O. Box 281061
Harrisburg, PA 17128-1061
Attn A. James Millar, Esq.
- Please make sure that the tax returns are signed, dated, and W-2 forms and Schedule C's are included, if appropriate.
5. Based upon Title 11 U.S.C. §§ 1308 and 1325, this post-October 17, 2005 Chapter 13 plan may not be confirmed by this Court because of the Debtors' failure to file the pre-petition state tax returns as referenced above or to provide the Department with any evidence or documentation to support why such returns need not be filed.

6. Furthermore, the Department's proof of claim, (Exhibit B), consisting of a secured claim of \$8346.97; a priority claim in the amount of \$1297.06; and unsecured non-priority claims in the amount of \$289.08 which are addressed in the plan in Section 8(A)(3A).
7. It is unclear how the Debtor intends to provide for the full payment of the Department's secured claim. The Plan should provide for the full payment of the Department's priority claim along with accrued interest in the amount of three percent.
8. Ultimately, the Department must object to the Debtor's instant Plan because it is not proposed in good faith and in compliance with 11 U.S.C. §§ 1322 and 1325.

WHEREFORE, the Department respectfully requests this Honorable Court deny confirmation of the Debtor's Proposed Chapter 13 Plan unless and until the Department's Objections have been cured and an amended plan is filed that accounts for the Department's claim(s) in the proper classification and amount.

Respectfully submitted,

DATE: April 5, 2017

By: /s/ Albert James Millar
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